Lang v. *Bayonne, Spear* v. *Kearney County,* and more particularly the recent Minnesota case of *State* v. *Bailey.* It is a "mere verbal distinction" to say that "the law does not recognize a municipality so created as an existing corporation, that it does not recognize the acts of its pretended officers as valid; but that it merely refuses to permit the right of such officers to exercise their functions to be challenged, in order that a government which exists in fact may not be overthrown until another is provided"; *Lang* v. *Bayonne.* This attack on the principle in *Norton* v. *Shelby County,* although not new, is rarely mentioned in the cases; it undoubtedly will not be overlooked in future litigation where this question is involved. H. W. I.

Two Recent Decisions Preventing the Presbyterian Re-union.—"What is the gude o' being a Presbyterian gin ye canna object?" says Peter Macintosh in "Days of Auld Lang Syne," and he represents a very large class of persons who appear to regard it as both a right and a duty to object. When, a few years since, the General Assemblies of The Cumberland Presbyterian Church and The Presbyterian Church in the United States of America determined that there should be a re-union of the two bodies there were, of course, many objectors. Disputes concerning property have brought the objectors to the re-union before the courts, and in Missouri and Tennessee they have recently obtained victories.

In *Landrith* v. *Hudgins,* — Tenn. —, 120 S. W. 783, and in *Boyles* v. *Roberts,* — Mo. —, 120 S. W. 805, the supreme courts of these states have held that the proceedings had in 1906 for re-uniting the two denominations were ineffective for that purpose. These decisions are obviously most important. They have been rendered after very careful consideration. The opinions are well written and the whole subject is discussed in them with dignity and learning well suited to the nature of the controversy. The decisions are entitled to respect. Nevertheless, with all due respect and having regard to the difficulties involved in the dispute, we must say that their validity may well be doubted.

The two courts base their judgments upon somewhat different grounds. The Missouri court holds that the Cumberland Presbyterian Church had, under its constitution, no power to form a union with another church; the Tennessee court holds that the church had inherent power to form such a union, but that this union was not formed in accordance with the fundamental law of the church. There certainly appears to be in the church's constitution no express prohibition of the exercise of such a power, and the doctrine of the Tennessee court on this point—the existence of the power—seems to be supported by all the recent decisions that have been rendered in this same controversy. *Mack* v. *Kime,* 129 Ga. 1; *Wallace* v. *Hughes,* — Ky. —, 115 S. W. 684; *Brown* v. *Clark,* — Tex. —, 116 S. W. 360; *Ramsay* v. *Hicks* — Ind. App. —, 87 N. E. 1091.

Both courts agree that the revision, made in 1903, of the Confession of Faith of the mother Presbyterian Church did not go far enough to remove

from the creed certain doctrines that had caused the separation of the Cumberland Presbyterian Church from the older body.

The General Assemblies of the two denominations had concurrently declared that: "In adopting the Confession of Faith of the Presbyterian Church in the United States of America, as revised in 1903, as a basis of union, it is mutually recognized that such agreement now exists between the system of doctrine contained in the Confessions of Faith of the two churches as to warrant this union—a union honoring alike to both." This concurrent declaration had been made after careful consideration. There can be no suspicion on the part of anyone that the earnest and able Commissioners were either ignorant or fraudulent in arriving at this conclusion. It may be that some of them, after making the declaration for union, put election before faith, and that others put faith before election, but, in a spirit of tolerance, all who voted for the declaration must have recognized the fact that there never can be a union of denominations if an absolute uniformity of belief is required.

The supreme judicatories of the two churches were satisfied, and one might well ask why the civil courts should require more. The answer given is that when property rights are involved the civil courts will examine into doctrinal questions and determine them for themselves. This is proper when the property has been devoted, by the express terms of the gift or grant by which it was acquired, to the support of some specific religious doctrine or belief, but it does not follow that it is proper in cases like those under discussion. The ownership of property depends upon the determination of certain doctrinal questions: if, under the form of government of the church, certain judicatories have jurisdiction to determine these doctrinal questions, and have determined them, there is little for the civil courts to do in the matter. *Watson* v. *Jones,* 13 Wall. 679, 726, 727; *Trustees of Trinity M. E. Church* v. *Harris,* 73 Conn. 216; *Brundage* v. *Deardorf,* 92 Fed. 214.

There has been in recent years a marked tendency towards church unity, but the effect of such decisions as these of the supreme courts of Missouri and Tennessee will be to check this tendency. Moreover, if these decisions are to be followed the task will more generally be imposed upon the courts of investigating theological questions of great complexity—a task which need be undertaken in a limited class of cases only if the principles established by *Watson* v. *Jones,* supra, are adhered to. J. H. B.